

**Appln No. 09/647,899**

**Amdt date March 23, 2004**

**Reply to Office action of September 23, 2003**

**REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office mailed September 23, 2003. Claims 1, 6, 9-11, 14, 16, 18, 20, 21, 27, 28 and 30 have been amended. Claims 2, 15, 22, 26 and 44-47 have been cancelled without prejudice. Claims 48-56 have been added. Accordingly, claims 1, 3-14, 16-21, 23-25, 27-43 and 48-56 remain in the application. Pursuant to a restriction requirement, claims 3, 5, 25 and 34-42 have been withdrawn from consideration.

On pages 2-3 of the Office action, claims 9, 10, 11, 14, 15-23 and 26-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claims 9 and 10, "the raised area" has been changed to "each raised area." In claim 10, "running conical" has been changed to "that converge." Also, "in the assembly direction" has been deleted as unnecessary. In claim 11, "the material in the area of" has been deleted as unnecessary. In claim 14, "therewith" has been changed to "the worm wheel teeth." In claim 16, the word "type" and the phrase "through its ends" have been deleted as unnecessary. Additional changes have been made to the claims to more completely cover certain aspects of the invention. Applicant respectfully requests that the Examiner carefully review the changes and approve them for entry.

On pages 3-4 of the Office action, claims 1, 2, 4, 6-15, 24, 26 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber. Claim 1 of the application recites a

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"guide rail assembly having a first rail and a second rail that are displaceable relative to each other, the first rail and the second rail defining a hollow cavity therebetween." In addition, claim 1 recites that "the gear housing and the gear assembly are located in the hollow cavity." Weber does not disclose these features. Accordingly, claim 1 is believed to be patentable over Weber. The last two paragraphs of claim 1 have been deleted as unnecessary. In addition, it is noted that the term "plates" in claim 1 should not be construed as limiting in any way. In particular, Figs. 5-9 show various "plates," some of which having varying thicknesses, different surface geometries and different shapes.

The remaining claims that are rejected as being anticipated by Weber depend from claim 1 and because they contain additional limitations further distinguishing these claims from Weber when considered as a whole, these claims are also believed to be patentable.

On pages 4-5 of the Office action, claims 16-23 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber as applied to claims 1, 2, 4, 6-15, 24, 26 and 43 and further in view of Isomura. In addition, claims 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber. The Isomura reference describes the use of a rotatable threaded shaft 28. Weber, in contrast, describes a threaded shaft that is prevented from rotating. Col. 3, line 65 - Col. 4 - line 2. Accordingly, it is not possible to combine these two references without significantly changing the design of one or the other.

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The invention of claims 1 and 27 provide several advantages. The use of a "rotationally fixed" spindle leads to the advantage that the diameter of the spindle can be minimized. The reason for this is that a fixed spindle is less prone to vibrations than a turning spindle. Therefore, one can achieve the necessary stability of a fixed spindle (which is important in the case of vehicle collisions) even if its diameter is comparatively small. Further, in view of the small diameter of the spindle, the size of the corresponding gear elements can be reduced also.

Weber deals with an entirely different field of technology, namely the adjustment of a headlight on a vehicle. The Weber device is not related to drive units for seat adjustment devices, is not concerned with collision forces and does not use guide rails. The teachings of Isomura do not help because Isomura teaches away from the present invention recited in claims 1 and 27. In particular, Isomura uses a rotating spindle which interacts with two different gear elements located in two different gear housings, namely worm 16 located in housing 83 and nut 40 located in holders 138. In addition, Isomura describes a raised front part of the rail unit 46 to accommodate the large gear housing 83 and holders 94. Accordingly, applicant respectfully submits that claims 1 and 27 of the present application are patentable over Weber in view of Isomura.

New claim 48 is further distinguishable over Weber in view of Isomura based on the recitation, among other things, of "a spindle nut having an internal thread and external worm wheel

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teeth, and a drive worm engaging the worm wheel teeth, the internal thread threadedly engaging the threaded spindle," the location of the spindle and the gear housing on the bottom and top rails, respectively, and the U-shaped gear socket. Claim 51 further recites that "at least one of the at least two housing plates has an opening therethrough into which the external worm wheel teeth of the spindle nut project."

New claim 52 is further distinguishable over Weber in view of Isomura based on the recitation, among other things, of "uncoupling elements of one of rubber and plastic mounted to eliminate noise and compensate for tolerances between the gear assembly and the projecting portions of the gear socket of the holder," and "wherein the holder has arms for fixing the gear assembly on the top rail, the arms having fastening openings which correspond to fastening openings of the top rail so that the holder can be connected to the top rail and reinforces the top rail, and the fastening openings of the holder are fastening elements with internal threads which project into the hollow cavity."

In view of the above, applicant respectfully requests reconsideration of the application and the allowance of claims 1, 3-14, 16-21, 23-25, 27-43 and 48-56.

Respectfully submitted,

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